

## REMARKS

The present response is to the Office Action mailed in the above-referenced case on April 1, 2004. Claim 8 is objected to because of minor informalities. Claims 1-5 and 8-14 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of 1-5, 8-14 of copending Application number 09/333,218. Claims 5-6 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting. Claim 7 is not directly addressed by the Examiner.

In response to the Examiner's rejection, objection and comments, applicant herein amends claim 8 to overcome the Examiner's objections. Applicant herein files a terminal disclaimer in order to overcome the provisional double patenting rejection for claims 5-6.

Claim 8, as amended now reads:

*8. (Currently Amended) An apparatus for reallocating switching circuitry in a switching fabric to permit data transfer among a plurality of interface units each having a plurality of data ports, the switching fabric being partitionable into a plurality of switch planes such that each switch plane is assignable to transfer data associated with a data port of the plurality of interface units and each switch plane including multiple switching data communication links each being assignable to transfer data associated with one data port of one of the interface units, the apparatus comprising:*

*a memory for storing an allocation table that stores assignments of the switching data communication links to data ports of the interface units; and*

*a processor ~~(H)~~ (i) determining a number of interface units connected to the switching fabric, (ii) determining a number of switching data communication links in each switch plane, and (iii) if the number of interface units is less than the number of switching data communication links in each switch plane, for at least out of the plurality*

*of switch planes, assigning a first data communication link in the switch plane to transfer data associated with a first data port of a first interface unit and assigning a second data communication link in the switch plane to transfer data associated with a second data port of the first interface unit.*

Regarding the statutory double patenting rejection under 35 U.S.C. 101 for claims 1-5 and 8-14, applicant believes the Examiner has erred. The Examiner rejected the claims over application number, 09/333,218, which is the application number of the present invention case being prosecuted. Applicant believe the 35 U.S.C. 101 rejection of claims 1-5 and 8-14 should therefore be withdrawn.

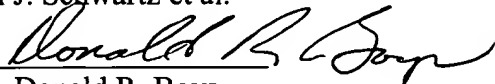
Applicant has addressed all issues brought by the Examiner. Applicant believes with the amendment to claim 8 and the provided terminal disclaimer, the claims are shown to be patentable, as no other art rejections are made by the Examiner.

As all of the claims standing for examination, applicant respectfully requests reconsideration and that the present case be passed quickly to issue. If there are any time extensions due beyond any extension requested and paid with this amendment, such extensions are hereby requested. If there are any fees due beyond any fees paid with the present amendment, such fees are authorized to be deducted from deposit account 50-0534.

Respectfully Submitted,

Steven J. Schwartz et al.

by



Donald R. Boys  
Reg. No. 35,074

Donald R. Boys  
Central Coast Patent Agency  
P.O. Box 187  
Aromas, CA 95004  
(831) 726-1457